

-2:17-cr-00306-JCM-VCF -

REPORTER'S TRANSCRIPT OF ZOOM PROCEEDINGS

BEFORE THE HONORABLE JAMES C. MAHAN,
UNITED STATES DISTRICT JUDGE

APPEARANCES: See next page

COURT REPORTER: Samantha N. McNett, RPR, CRR, CCR, CSR
United States District Court
333 Las Vegas Boulevard South, Room 1334
Las Vegas, Nevada 89101
Samantha McNett@nvd.uscourts.gov

25 Proceedings reported by machine shorthand, transcript produced by computer-aided transcription.

2:17-cr-00306-JCM-VCF

1

APPEARANCES

2

For the Plaintiff:

3

CHAD WILLIAM MCHENRY, ESQ.
US DEPARTMENT OF JUSTICE
1301 New York Avenue NW
Washington, DC 20530
202-615-1286

6

7

For the Defendant:

8

ALAN EISNER, ESQ.
EISNER GORIN, LLP
14401 Sylvan Street, Suite 112
Van Nuys, California 91401
818-781-1570

11

12

Also present:

13

Michelle Cravotta, United States Probation Officer

14

Marina Oniceanu, Romanian Interpreter

* * *

15

16

17

18

19

20

21

22

23

24

25

2:17-cr-00306-JCM-VCF

1 LAS VEGAS, NEVADA; WEDNESDAY, NOVEMBER 17, 2021; 10:09 A.M.

2 --oo--

3 P R O C E E D I N G S

4 THE COURTROOM ADMINISTRATOR: You do so solemnly swear
5 that you will truly, fairly, justly, and impartially act as an
6 interpreter in the cause now pending before this Court, so help
7 you God?

8 THE INTERPRETER: I do.

9 THE COURTROOM ADMINISTRATOR: If you can please state
10 your name and spell it for the record.

11 THE INTERPRETER: Marina Oniceanu, O-N-I-C-E-A-N-U.

12 THE COURTROOM ADMINISTRATOR: Thank you.

13 This is the time set for imposition of sentence in
14 case number 2:17-cr-00306-JCM-VCF, United States of America
15 versus Valerian Chiochiu.

16 Counsel, please note your appearance for the record.

17 MR. MCHENRY: Good morning, your Honor. Chad McHenry
18 for the United States.

19 MR. EISNER: Good morning, your Honor. Alan Eisner
20 appearing via the Zoom conference, attorney for defendant
21 Valerian Chiochiu. And Mr. Chiochiu is present in court and,
22 your Honor, he has the assistance of a Romanian language
23 interpreter.

24 THE COURT: All right. Who's appearing for the
25 defendant?

2:17-cr-00306-JCM-VCF

1 MR. EISNER: I am, your Honor. Alan Eisner.

2 THE COURT: All right. This says -- that's a
3 different one. I'm sorry. I had a different -- all right.
4 Mr. McHenry and Mr. Eisner. Okay. All right. Now we're
5 properly identified. Okay. Thank you.

6 Do you pronounce your last name Chiochiu?

7 THE DEFENDANT: (Foreign language spoken) Chiochiu.

8 THE COURT: Chiochiu? Okay.

9 Mr. Chiochiu, do you understand you have a right to
10 a -- to appear in person in a criminal proceeding?

11 Do you understand that?

12 THE DEFENDANT: Yes, sir. I understand I have the
13 right to appear in person.

14 THE INTERPRETER: So he speaks English?

15 MR. EISNER: Your Honor, can I say this?

16 Mr. Chiochiu's English is very good. Can I have a second with
17 him to see if he wants to communicate with you in English and
18 then maybe ask for an interpretation if that's required for
19 certain questions?

20 THE COURT: Yeah, we can just have the interpreter
21 stand by if that's the case. So go ahead and take a moment to
22 talk to your client.

23 MR. EISNER: All right. Thank you.

24 THE COURT: Yes, sir.

25 MR. EISNER: That's what we're going to do, your

2:17-cr-00306-JCM-VCF

1 Honor. Thank you for that option. He's going to move ahead in
2 English, and if he needs the Romanian language interpreter,
3 we'll inquire at that point.

4 THE COURT: All right. Thank you.

5 All right. Mr. Chiochiu, I have before me what
6 purports to be a written waiver of right to appear in person at
7 criminal proceeding. Did you sign this on or about, looks
8 like, November 6th of this year?

9 THE DEFENDANT: Yes, your Honor, I signed it.

10 THE COURT: And you consent to appear today remotely,
11 which is what we're doing, rather than in person which is your
12 right; is that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Thank you.

15 I hereby enter an order then accepting the defendant's
16 waiver and find that his waiver is knowing and voluntary.

17 All right. Any reason sentence should not be imposed
18 at this time?

19 MR. MCHENRY: No, your Honor.

20 MR. EISNER: No, your Honor. Not from the defendant's
21 perspective.

22 THE COURT: All right. Mr. Chiochiu, this is the time
23 set for imposition of sentence upon you in case number
24 2:17-cr-306.

25 On July 31, 2020, you appeared before the Court and

2:17-cr-00306-JCM-VCF

1 entered a plea of guilty to conspiracy to engage in a racketeer
2 influenced corrupt organization which is a violation of 19 --
3 18 USC Section 1962(d). Having reviewed the presentence report
4 and plea agreement, the Court hereby accepts your guilty plea
5 and adjudicates you guilty of this charge.

6 Now, the Government filed one objection to the
7 presentence report pertaining to the applicability of an
8 obstruction of justice enhancement. The probation department
9 responded and resolved the objection by amending the report to
10 reflect the obstruction of justice enhancement.

11 Is that correct, Mr. McHenry? Your objection is moot
12 now?

13 MR. MCHENRY: It is, your Honor. Thank you.

14 THE COURT: Thank you.

15 No objections to the presentence report were filed by
16 the defendant. Before we proceed, any other additional
17 objections or disputes?

18 MR. MCHENRY: Nothing from the Government, Judge.

19 THE COURT: Thank you.

20 MR. EISNER: Nothing from the defendant.

21 THE COURT: Thank you.

22 All right. Mr. Chiochiu, did you read the presentence
23 report?

24 THE DEFENDANT: Yes, your Honor, I read the
25 presentence report.

2:17-cr-00306-JCM-VCF

1 THE COURT: And did you discuss it with your attorney?

2 THE DEFENDANT: Yes.

3 THE COURT: Did you find any errors or discrepancies
4 other than he may have pointed out to me?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Okay. Probation department calculated --
7 as a matter of fact, there were no objections from the defense;
8 is that correct, Mr. Eisner?

9 MR. EISNER: That is correct, your Honor. We believe
10 it's an accurate calculation of the guidelines.

11 THE COURT: Thank you.

12 All right, Mr. Chiochiu. Let's see. The probation
13 department calculated the base offense level to be 43. Two
14 levels were added for obstruction of justice. Three levels
15 were subtracted for acceptance of responsibility resulting in a
16 total offense level of 42. The total criminal history points
17 are 0 resulting in a criminal history category of Roman numeral
18 I.

19 The maximum statutory term of imprisonment is
20 20 years.

21 The maximum statutory fine is \$1.136 billion -- that's
22 with a "B" -- and a special assessment of \$100 per count is
23 mandatory.

24 Based on a total offense level of 42 and the criminal
25 history category of Roman numeral I, the guideline range would

2:17-cr-00306-JCM-VCF

1 be 360 months to life, which exceeds the statutory maximum
2 sentence of 240 months. Thus, the custodial guideline range is
3 240 months.

4 The guideline range for supervised release is 1 to
5 3 years.

6 And the guideline fine range is \$50,000 to \$1,136,000.

7 Pursuant to the plea agreement accepted by the Court,
8 under Federal Rule of Criminal Procedure 11(c)(1)(C), the Court
9 will impose a sentence that is no greater than 132 months.

10 Now, Mr. McHenry, any additional comments before I
11 impose sentence?

12 MR. MCHENRY: I have some briefly, your Honor.

13 THE COURT: Yes, sir.

14 MR. MCHENRY: I just -- thank you, Judge.

15 I just wanted to submit to the Court and I suppose
16 reiterate the Government's position that Mr. Chiochiu is one of
17 the most sophisticated and therefore economically dangerous
18 defendants the Government indicted in this case.

19 Mr. Chiochiu has an extremely an advanced technical
20 skill set. He is a software developer. He has admitted to
21 authoring this strain of malware. The Government, of course,
22 included in the plea agreement and has evidence indicating that
23 over the course of about five years, he was able to utilize
24 that skill set to acquire in excess of a million dollars --
25 that's about \$200,000 per year -- in checks from a single

2:17-cr-00306-JCM-VCF

1 online gift card marketplace that he was using to launder his
2 proceeds.

3 With respect to his involvement in the conspiracy, I
4 reviewed the posts and messages that he sent and received and
5 made this morning, all of which, of course, were provided in
6 discovery. He had 57 posts on the forum from December 2012
7 through January 2017. He sent or received 92 private messages
8 during that same time period.

9 Looking at the contents of these posts, in addition to
10 the sort of more typical reviews of vendors, you know,
11 discussion of general criminal conduct, he is -- he is very
12 much talking about the sort of sophisticated conduct that makes
13 the Government believe he's dangerous. In one post, October of
14 2014, he indicates with respect to a piece of software called a
15 POS extractor, or a point of sale extractor, "I have the source
16 code. If you have many point of sale terminals, we can infect
17 them and you send me some bins (phonetic)," i.e., some credit
18 card data. He was a very active participant in this
19 conspiracy.

20 I would submit to the Court with respect to the
21 cofounder, Mr. Medvedev, Mr. Chiochiu's criminal conduct that
22 he directly participated in was at least as severe, at least as
23 economically dangerous.

24 And then you take into account the fact that after he
25 agreed to turn himself in with evidence, knowing what he was

2:17-cr-00306-JCM-VCF

1 being charged with and investigated for and knowing that he
2 agreed through his attorney to provide that evidence to the
3 Government, he attempted to surgically wipe some of those
4 computer hard drives. And I say surgically because if the
5 Government hadn't had a very skilled forensic examiner examine
6 those drives, we never would have found the tiny connection
7 between that hard drive and the malware that he overlooked when
8 he erased that data. It looked, for all intents and purposes,
9 to the untrained eye as if the drive was clean and had nothing
10 do with that malware.

11 So your Honor, I would submit that based both the
12 severity of his criminal conduct, his involvement in the
13 organization and on the forum and, in addition, the behavior
14 that really distinguishes from Mr. Medvedev, the after-the-fact
15 obstruction and destruction of evidence, your Honor, I would
16 respectfully submit that a sentence of 132 months is merited
17 and appropriate in this case.

18 That's all I have. Thank you.

19 THE COURT: All right. Now, Mr. Chiochiu, would you
20 like to address the Court? Would you like to have your
21 attorney speak on your behalf, Mr. Eisner? Or both of you may
22 speak. It's your option.

23 MR. EISNER: Thank you, your Honor. Let me start --
24 and I think Mr. Chiochiu wants to address the Court personally
25 and -- and express some thoughts.

2:17-cr-00306-JCM-VCF

1 First of all, your Honor, we're here before you after
2 a guilty plea, which you're aware of, and according to the plea
3 agreement and the PSR, we do believe that that's an accurate
4 characterization of the guidelines.

5 And the Government is asking for a sentence of
6 11 years and, your Honor, as you can see from my sentencing
7 position, we've asked for a sentence of 72 months, which is six
8 years.

9 And I want to first start off by saying that this
10 guideline range is -- it is what it is because of the loss in
11 the case. There's a 30 point jump because of a \$568 million
12 loss that was due to the entire conspiracy of which
13 Mr. Chiochii played a -- certainly played a role but played a
14 small role, a relatively small role in that loss.

15 THE COURT: Now you sound like a Government -- you
16 sound like you're one of those Government bureaucrats. You
17 know, it's only 568 million. What the hell? That's not that
18 much.

19 MR. EISNER: Well --

20 THE COURT: I mean, that's a significant loss.

21 MR. EISNER: I hear you. And I'm not -- I don't want
22 to minimize it.

23 I'm reminded by a president -- I forget who he was,
24 but they were talking about the budget and one of his advisers
25 says, "Well it's a million dollars," and then the president

2:17-cr-00306-JCM-VCF

1 said, "Well, a million here, a million there. Pretty soon
2 you're starting to talk about real money." And --

3 THE COURT: I think that was Everett Dirksen,
4 actually, the Senate majority leader. Of course, a young man,
5 I believe, yeah.

6 MR. EISNER: You probably know --

7 THE COURT: It doesn't matter. Go ahead.

8 MR. EISNER: Well, I -- yeah. I -- I don't want to
9 minimize the loss, your Honor. I don't.

10 But I do want to say that, you know, it was due to the
11 multitude of persons that were involved of which Mr. Chiochii
12 admits he had a part in, which he acted in, a serious part in,
13 which he's acknowledged. But nonetheless, that's why the
14 guidelines are where they are.

15 And even the probation department recognizes that the
16 guideline range would be improper in this case. And even the
17 Government, to their credit, believes that it's an improper
18 barometer of sort of sentencing in this case.

19 And, you know, again, I just don't want to minimize
20 that -- that fact, but I do want to say that the 30 point bump
21 in the offense level is due to the loss in the case and -- of
22 which, again, Mr. --

23 (Technical difficulties.)

24 MR. EISNER: I --

25 (Technical difficulties.)

2:17-cr-00306-JCM-VCF

1 THE COURT: You're breaking up, Mr. Eisner. If you
2 could, go back just a little bit. You want to minimize the
3 loss, but something. And that's where you broke up, if you can
4 hear me.

5 (Court and courtroom administrator conferring.)

6 (Technical difficulties.)

7 MR. EISNER: I'm sorry. That's on my end. I
8 apologize. And it was on my end.

9 May I move forward, your Honor?

10 THE COURT: Yes, sir.

11 MR. EISNER: I -- we did --

12 THE COURT: You were saying something about you didn't
13 want to minimize the loss, but something, and then that's where
14 we lost you.

15 MR. EISNER: Well, I'll leave it at that. We have
16 admitted to a substantial factual basis. We don't want to
17 minimize it. He's here before you after accepting
18 responsibility.

19 I do want to emphasize, your Honor, I believe the six
20 year sentence that we've requested is a substantial sentence
21 for someone with no criminal history whatsoever. I realize
22 that he's a criminal history I and sometimes people say, well,
23 that's already built into the guidelines, no criminal history,
24 but he certainly has absolutely a clean criminal history,
25 different from other people who, perhaps, were arrested or had

2:17-cr-00306-JCM-VCF

1 minor offenses. But he's led a law-abiding life and I -- I do
2 want to emphasize that.

3 I also want to emphasize, your Honor, that Mr. --
4 Mr. Chiochiu, in relation to other people in this case -- and I
5 put this in my sentencing position. Defendant number 2,
6 Mr. Medvedev, he received a sentence of 120 months. And this
7 is the man who organized the forum, organized entirely the
8 in-fraud organization. He was the administrator. It was the
9 highest role in the hierarchy. He managed the day-to-day
10 operations of the -- of the operation. He managed the
11 long-term strategic vision of the organization. He placed
12 money in escrow to the launders through which members can cash
13 out their gains. And he set the rules for the organization.
14 And that man got a sentence of 10 years. And the Government is
15 seeking a sentence in excess of that for Mr. Chiochiu. So, you
16 know, that's one thing I'm asking you to consider, your Honor,
17 is the relative sentences that other people got.

18 Another person was defendant Torteya, defendant number
19 5, and he was a VIP member, your Honor, a person who had high
20 membership credentials. He posted multiple posts on the forum.
21 He was on there for five years. He compromised data. His
22 participation in the in-fraud community was substantial. And
23 he received a sentence of 96 months and, again, the Government
24 is seeking a sentence of some three years to four years over
25 Mr. Torteya and I don't see, quite frankly, how this

2:17-cr-00306-JCM-VCF

1 defendant's culpability is -- is any worse than -- than that
2 defendant's.

3 Another defendant is Edgar Rojas, your Honor.

4 I've laid that out in my sentencing position these
5 four other defendants that were sentenced and their relative
6 roles.

7 And, you know, I'm mindful of the posts that defendant
8 participated in in the conspiracy. I'm mindful of his
9 participation in creating a software that was involved in a
10 malware that was -- that did serious damage to -- to many
11 victims. And I am aware that he did not present his electronic
12 data in the condition that the Government wanted to, that he
13 cleaned the data on it. And that's appropriately calculated
14 with the obstruction of justice.

15 But in light of all of the facts in the case, your
16 Honor, you know, I'd ask you to emphasize the lack of criminal
17 history.

18 And another factor, your Honor, you know, he does have
19 a wife and a young family. His wife wrote a letter to the
20 Court and I'm sure your Honor read it. The letter did speak to
21 the impact that this incident and this episode and the arrest
22 had on Mr. Chiochiu. I know you read it, your Honor, but I do
23 want to emphasize the -- the tone of her -- of her words. And
24 I have it here in front of me. Well, he just -- she just
25 speaks to how he has worked since the incident, he works in

2:17-cr-00306-JCM-VCF

1 a -- in a job in a factory, he works to support his young
2 child.

3 A sentence of -- in the range of where the Government
4 is requesting takes him away from that child for approximately
5 10 years. I believe, respectfully, that your Honor needs to
6 impose a sentence -- a reasonable sentence but one that is no
7 greater than necessary to achieve the purposes of sentencing in
8 this case.

9 And the PSR, on page 92 -- from paragraph 92 explains
10 Mr. Chiochiu's -- the impact on him. When the probation
11 officer asked him his plans, Mr. Chiochiu said he would like to
12 continue his education so that he may further his career as a
13 software engineer, expand his family, and live a law-abiding
14 lifestyle. And I know there's a significant period of
15 probation that will be imposed. There will be monitors in --
16 in place to make sure that he maintains a law-abiding
17 lifestyle, but that's his -- his goals, your Honor.

18 And -- and his wife said that he became a more loving,
19 caring, supportive individual and is helpful with their
20 daughter and enjoys spending time with her. He takes her to
21 school. His wife would be here today, but his wife took his
22 daughter to -- to -- took their daughter to school.

23 And I -- I do want to emphasize that, you know, both
24 him and his wife are working. His wife works a night shift.
25 He works in a -- in a factory, you know, a labor job. You

2:17-cr-00306-JCM-VCF

1 know, he punches the clock every day. So I'm asking those
2 factors to be included in the nature and circumstances of the
3 defendant, that he has turned his life around, that there has
4 been three years since his offense in the case. He's been on
5 an ankle bracelet for three years. He's been --

6 (Technical difficulties.)

7 THE COURT: We lost you again. I don't know if you
8 can hear us, but we lost you again.

9 Can you hear me?

10 MR. EISNER: Yeah, I can hear you. Are you there?

11 THE COURT: We can now. You're saying he's been on
12 the ankle bracelet for three years and --

13 MR. EISNER: Yeah, he has been on his ankle bracelet
14 for three years.

15 You know, as a final point, I would ask, respectfully,
16 that he be able to self-surrender to the institution that he's
17 designated to. I'm hoping the Government would permit that, as
18 well.

19 (Technical difficulties.)

20 THE COURT: We lost you again. Can you hear me? We
21 lost you. We really lost him now. The screen just went dark.

22 Now he's back.

23 THE COURTROOM ADMINISTRATOR: You have it on mute,
24 Mr. Eisner.

25 THE COURT: I'm sorry. Do we have him?

2:17-cr-00306-JCM-VCF

1 THE COURTROOM ADMINISTRATOR: We do, your Honor, but
2 he's on mute.

3 MR. EISNER: Yeah, I'm back.

4 THE COURT: You say you wanted him to be able to
5 self-surrender, I believe.

6 MR. EISNER: Yes, I did. You know, I'll finish up
7 here, your Honor, and let Mr. Chiochiu have a couple of words.

8 I do want to emphasize that the sentence that
9 defendant is requesting, six years, is a substantial sentence.
10 We believe that a sentence greater than that or substantially
11 greater than that is more than necessary to achieve the goals
12 of sentencing in this case considering the nature and factor of
13 his --

14 (Technical difficulties.)

15 (Court and courtroom administrator conferring.)

16 MR. EISNER: If I'm back here, I'd like Mr. Chiochiu
17 to say some words.

18 THE DEFENDANT: I would like to welcome my deepest
19 apologies for poor judgment in the helping strangers on the
20 internet. This poor judgment obviously is bad circumstances
21 for me. I -- I was always trying to improve myself and leave
22 all this bad life behind. And I would like to promise the
23 Court that I will never -- I will always be a good citizen.
24 And, yeah, I -- again, I would like to apologize that all my
25 posts and helping people to do bad things.

2:17-cr-00306-JCM-VCF

1 MR. EISNER: Were you able to hear that, your Honor?

2 THE COURT: Yes, sir. We got that. Thank you.

3 All right. Having heard statements of counsel for the
4 Government, counsel for the defendant, and the defendant's
5 remarks, having read the presentence report submitted by the
6 probation department, considering its contents and the contents
7 of the binding plea agreement, the Court hereby accepts the
8 terms of the binding plea agreement and will embody those terms
9 in the sentence provided.

10 Of course, overriding everything are the factors set
11 forth in 18 USC 3553(a) which the Court always considers when
12 determining an appropriate sentence.

13 The sentencing guidelines have been around for, I
14 think, going back to 1984. It hard to believe it's been that
15 long, but going back to 1984. And the whole purpose behind
16 them was to end the disparity in sentencing. And the thought
17 was if you rob a bank in New York, you shouldn't get a
18 different sentence than somebody who robs a bank in Los
19 Angeles, but that kind of disparity. So for the same crime or
20 similar crime, the sentences should be somewhat equal. And I
21 always try to apply that to prevent a disparity in sentencing.

22 So the other -- Mr. Medvedev got 120 months, which was
23 10 years, and I think that's an appropriate sentence for you.
24 Again, you and he were the two masterminds, if you will, behind
25 this. And I think that your sentences should reflect that.

2:17-cr-00306-JCM-VCF

1 So you're hereby committed to a sentence of 120 months
2 which is not -- not greater than necessary to reflect the
3 seriousness of the crime, promote respect for the law, provide
4 just punishment, and provide adequate deterrence but still give
5 you a chance to prove that you really have turned over a new
6 leaf. The sentence is sufficient but not greater than
7 necessary to achieve the purposes of sentencing in 18 USC
8 Section 3553(a) and, specifically, to avoid sentencing
9 disparities when considering the defendant's role in the
10 conspiracy.

11 A mandatory penalty assessment of \$100 is required by
12 statute and due immediately.

13 The number of victims in this case is so large as to
14 make restitution impracticable. The defendant is fined
15 \$568 million in lieu of restitution jointly and severally with
16 his codefendants, payable immediately. Any unpaid balance
17 shall be paid at a monthly rate of not less than 10 percent of
18 any income earned during incarceration and/or gross income
19 while on supervision subject to adjustment by the Court based
20 upon ability to pay.

21 (Technical difficulties.)

22 MR. MCHENRY: I apologize, your Honor. It looks like
23 we lost Mr. Eisner again.

24 THE COURTROOM ADMINISTRATOR: Judge, I gave him the
25 telephone number to call in if he has any problems. It looks

2:17-cr-00306-JCM-VCF

1 like he's joining again.

2 THE COURT: All right. Thank you. Thanks for
3 pointing that out to me.

4 Are you back?

5 MR. EISNER: We're here, your Honor. You know, I have
6 the phone number and the access code. If that happens again,
7 I'm going to call in. So let's try to proceed. I sincerely
8 apologize for this.

9 THE COURT: It's not -- you don't need to apologize.
10 Not your fault. It's -- this is part of the -- when we try to
11 do this remotely.

12 Now, I imposed a mandatory penalty assessment of \$100.
13 Did you hear me do that?

14 MR. EISNER: Yes, I did.

15 THE COURT: So restitution is impracticable. Did you
16 hear me say that?

17 MR. EISNER: No.

18 THE COURT: The Court finds that the number of victims
19 in this case is so large as to make restitution impracticable.
20 The defendant is fined \$568 million in lieu of restitution
21 jointly and severally with his codefendants payable
22 immediately. Any unpaid balance shall be paid at a monthly
23 rate of not less than 10 percent of any income earned during
24 incarceration and/or gross income while on supervision subject
25 to adjustment by the Court based upon ability to pay.

-2:17-cr-00306-JCM-VCF -

6 1. You must not commit another federal, state, or
7 local crime.

8 2. You must not unlawfully possess a controlled
9 substance.

10 3. Ordinarily, it would be drug -- drug prohibition,
11 unlawful -- to prohibit unlawful drugs, but the Court grants
12 suspension of mandatory drug testing based upon your low risk
13 of future drug use.

14 So then number 3 will be: You must cooperate in the
15 collection of DNA as directed by the probation officer.

16 In addition, the following special conditions are
17 imposed:

18 1. Deportation Compliance. If you are ordered
19 deported from the United States, you must remain outside the
20 United States unless legally authorized to re-enter. If you
21 re-enter the United States, you must report to the nearest
22 probation office within 72 hours after you return.

23 2. Access to Financial Information. You must provide
24 the probation officer access to any requested financial
25 information and authorize the release of any financial

2:17-cr-00306-JCM-VCF

1 information. The probation office will share financial
2 information with the U.S. Attorney's Office.

3 3. Debt Obligations. You must not incur new credit
4 charges or open additional lines of credit without the approval
5 of the probation officer.

6 4. No contact. You must not communicate or otherwise
7 interact with your codefendants either directly or through
8 someone else without first obtaining the permission of the
9 probation office.

10 5. Search and Seizure. You must submit your person,
11 property, house, residence, office, vehicle, papers, computers
12 (as defined in 18 U.S.C. Section 1030(e)(1)), other electronic
13 communications or data storage devices or media to a search
14 conducted by a United States probation officer. Failure to
15 submit to a search may be grounds for revocation of release.
16 You must warn any other occupants that the premises may be
17 subject to searches pursuant to this condition.

18 The probation officer may conduct a search under this
19 condition only when reasonable suspicion exists that you have
20 violated a condition of supervision and that the areas to be
21 searched contain evidence of this violation. Any search must
22 be conducted at a reasonable time and in a reasonable manner.

23 6. Computer Monitoring. You must allow the probation
24 officer to install computer monitoring software on any computer
25 (as defined in 18 USC Section 1030(e)(1)) that you use.

2:17-cr-00306-JCM-VCF

1 7. Computer Search Monitoring Software. To ensure
2 compliance with the computer monitoring condition, you must
3 allow the probation office to conduct periodic unannounced
4 searches of any computers (as defined in 18 USC
5 Section 1030(e)(1)) subject to computer monitoring. These
6 searches shall be conducted for the purposes of determining
7 whether the computer contains any prohibited data prior to
8 installation of the monitoring software, to determine whether
9 the monitoring software is functioning effectively after its
10 installation, and to determine whether there have been attempts
11 to circumvent the monitoring software after its installation.

12 You must warn any other people who use these computers
13 that the computers may be subject to searches pursuant to this
14 condition.

15 In order to maintain consistency across the breadth of
16 the defendants in this case, I'm going to include the financial
17 penalty condition, which probation did not have it, but I
18 believe it necessary for all the defendants in this case to
19 have that.

20 8. Financial Penalty. If the judgment imposes a
21 financial penalty, you must pay the financial penalty in
22 accordance with the schedule of payments sheet of this
23 judgment. You must also notify the Court of any changes in
24 economic circumstances that might affect your ability to pay
25 this financial penalty.

2:17-cr-00306-JCM-VCF

1 All right. Ms. Cravotta, can you give -- make sure
2 that the defendant's attorney, Mr. Eisner, gets a copy of these
3 conditions and he may forward them to the defendant so that the
4 defendant may study them as he sees fit?

5 MS. CRAVOTTA: Yes, your Honor.

6 THE COURT: And then somebody was saying something.
7 Did I cut somebody off?

8 MR. EISNER: No, your Honor. I dialed in, but I think
9 we're going to forge through with the Zoom connection, although
10 it's a little unstable, but we've -- we've gotten that the
11 financial penalty must be imposed to be consistent with all
12 defendants. We heard that.

13 THE COURT: All right. All right. Now, Mr. Chiochiu,
14 in your plea agreement, you waived your rights to appeal your
15 conviction and sentence. Nevertheless, there may be certain
16 appellate rights that cannot be waived.

17 If you desire to appeal your conviction and sentence,
18 you must file notice of appeal with this Court within 14 days
19 from today's date. In the event you cannot afford to pay the
20 costs on appeal, you may request permission to proceed in forma
21 pauperis.

22 If you require the services of an attorney to assist
23 on the appeal and cannot afford to pay an attorney, one will be
24 appointed to represent you at no cost to yourself. And if you
25 require any transcripts of any proceedings in order to

2:17-cr-00306-JCM-VCF

1 prosecute your appeal and cannot afford to pay for those
2 transcripts, they also will be provided at Government expense.

3 Do you understand all of that?

4 THE DEFENDANT: Thank you, your Honor.

5 THE COURT: Do you understand all of that?

6 THE DEFENDANT: Yes, your Honor. I understand. Thank
7 you.

8 THE COURT: All right. Now, we need a self-surrender
9 date.

10 THE COURTROOM ADMINISTRATOR: Yes, your Honor.

11 MR. EISNER: Your Honor, it will take the BOP, you
12 know, several weeks. Can we have it two months from today?

13 THE COURT: You're such an optimist, Mr. Eisner. It's
14 going to take them -- it's going to take, like, 70 days --

15 MR. EISNER: Oh, okay.

16 THE COURT: -- for them to designate. I just -- based
17 on my experience, it's going to be something like that.

18 But anyway, we're just going to explain that the --
19 within about 70 or 75 days, you'll get a letter in the mail
20 from the Bureau of Prisons designating -- telling you the
21 facility to which you've been designated. And it's your
22 responsibility to be at that facility on the date I'm going to
23 give you by 2:00 in the afternoon.

24 Do you understand, Mr. Chiochiu?

25 THE DEFENDANT: Yes, your Honor. I understand.

2:17-cr-00306-JCM-VCF

1 THE COURT: All right. What would the date be?

2 THE COURTROOM ADMINISTRATOR: Yes, your Honor. The
3 date will be Friday, February 18, 2022.

4 THE COURT: Friday, February 18, 2022 at 2:00 in the
5 afternoon.

6 So you'll get a letter telling you the facility to
7 which you've been designated. It's your responsibility to be
8 there before 2:00 on Friday, February 18th.

9 Do you understand?

10 (Technical difficulties.)

11 THE COURT: Can you hear me now?

12 MR. EISNER: I can, yes.

13 THE DEFENDANT: We can. Yes, your Honor. I
14 understand.

15 THE COURT: So Friday, February 18, 2022, 2:00 in the
16 afternoon, you'll have to be at that facility by that time.

17 Do you understand? 2:00 in the afternoon?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: So it's not that you got to be there at
20 6:00 a.m., but be there 10 or 15 minutes early because you
21 don't want -- you don't want to start off your incarceration
22 when they think that you've absconded just because you're five
23 minutes late. So it's -- so be there before -- just before
24 2:00.

25 Do you understand?

2:17-cr-00306-JCM-VCF

1 (Technical difficulties.)

2 THE COURT: Now, do you want -- do you want me to
3 request a -- or to suggest to the Bureau of Prisons a
4 destination for you?

5 MR. EISNER: In the Southern California area. That's
6 where his wife and child are. Thank you.

7 THE COURT: I know that from reviewing the file so I'm
8 glad to make that recommendation. Understand that both prisons
9 are crowded so I don't know if they can -- that the Bureau of
10 Prisons will be able to honor that, but I hope they'll be able
11 to honor it for you.

12 So number one would be anywhere in Southern
13 California.

14 Any other destination -- a secondary one?

15 MR. EISNER: You know -- or in California.

16 THE COURT: Okay. Preferably Southern California,
17 number one. Number two, anywhere in California then.

18 (Technical difficulties.)

19 THE COURT: All right. Anything else to come before
20 the Court?

21 MR. MCHENRY: Nothing from the Government, your Honor.
22 Thank you.

23 THE COURT: All right. Anything from the defense?

24 (Technical difficulties.)

25 THE COURT: Did we lose them again?

-2:17-cr-00306-JCM-VCF -

1 THE COURTROOM ADMINISTRATOR: It froze, your Honor.

2 THE COURT: Let's be at ease just a moment, see if we
3 can get them back.

4 MR. EISNER: The last we heard, your Honor, was
5 "Anything from the defense," and there isn't.

6 THE COURT: All right. So my recommendation to the
7 Bureau of Prisons is going to be Southern California, number
8 one; number two, any place in the State of California, number
9 two. Let me say that again. Make it clear.

10 Number one recommendation, anywhere in Southern
11 California.

12 Number two, anywhere in California.

13 | Correct?

14 MR. EISNER: Yes. Thank you.

15 THE COURT: All right. We'll be in recess then.

16 | (The proceedings concluded 10:53 a.m.)

17 | * * *

18

19

30

31

22

88

* * *

2:17-cr-00306-JCM-VCF

1

--oo--

2

COURT REPORTER'S CERTIFICATE

3

4 I, SAMANTHA N. MCNETT, Official Court Reporter, United
5 States District Court, District of Nevada, Las Vegas, Nevada
6 certify that the foregoing is a correct transcript from the
7 record of proceedings in the above-entitled matter to the best
8 of my abilities.

9

10 Date: August 1, 2022

11

12 /s/ Samantha N. McNett
13 Samantha McNett, RPR, CRR, CCR

14

15

16

17

18

19

20

21

22

23

24

25